

In the Matter of	)	
	)	CONSENT ORDER
ST. PAUL FIRE AND MARINE INSURANCE	)	LEVYING A FINE
COMPANY, ST. PAUL MERCURY INSURANCE	)	
COMPANY, ST. PAUL GUARDIAN	)	
INSURANCE COMPANY, ATHENA	)	NO. D 2000 - 03
ASSURANCE COMPANY, ST. PAUL MEDICAL	)	
LIABILITY INSURANCE COMPANY,	)	
NORTHBROOK PROPERTY AND CASUALTY	)	
INSURANCE COMPANY, NORTHBROOK	)	
INDEMNITY COMPANY, NORTHBROOK	)	
NATIONAL INSURANCE COMPANY, and	)	
SEABOARD SURETY COMPANY,	)	
	)	
Authorized Insurers.	)	

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**FINDINGS OF FACT:**

1. The Office of the Insurance Commissioner ("OIC") performed a Market Conduct Examination of St. Paul Fire And Marine Insurance Company, St. Paul Mercury Insurance Company, St. Paul Guardian Insurance Company, Athena Assurance Company, St. Paul Medical Liability Insurance Company, Northbrook Property And Casualty Insurance Company, Northbrook Indemnity Company, Northbrook National Insurance Company, And Seaboard Surety Company (hereafter, "St. Paul") with respect to agent licensing, advertising, complaint procedures, form and rate filings, underwriting and rating, underwriting with respect to cancellations, non-renewals and declinations, and claim settlement practices for the period from September 1, 1997 through February 28, 1998.
2. On June 8, 1999, a Report setting forth Findings, Conclusions, and Orders with respect to the above-referenced Market Conduct Examination was adopted by the Insurance Commissioner which found the following facts to be true.
3. St. Paul did not follow filed rates in 148 boat policies it issued in its West Marine and Power Squadrons programs.
4. In 1997, St. Paul was audited by the Washington State Insurance Examining Bureau, ("WIEB") which identified two policies, (CK08402341 and CK08402332) that were not rated in accordance with St. Paul's filed rates. WIEB issued an instruction to correct the premium on those policies. St. Paul endorsed the policies for the corrected premium amount, sending a copy of the endorsements to WIEB, but did not send them to the policyholders, and did not correct the premiums at renewal. St. Paul also did not follow it's the filed rating plan with respect to the premiums charged for policy numbers CK08401469, CK080401843, CK0840290, CK0842133, and CK08402339. No deviations were filed with the Commissioner.

5. St. Paul failed to document its underwriting analysis with respect to specific definable loss potential characteristics, analogy to similar exposures, and available loss frequency and severity data on twenty-three commercial policies(identified in Appendix 6 of the Report).
6. St. Paul did not file the Umbrella Excess Rating Manual used to rate its commercial umbrella program.
7. The forty-seven endorsements identified in Appendix 4 of the Report were issued but were not filed; Vehicle Exclusion Endorsement #S-645a (8/81) and PAK II Endorsement #98296 (5/81) 2 versions, were issued but not filed.
8. St. Paul did not follow its filed rating plan with respect to the expense factor applied to policy number CK08402469; applied surcharges to coverages which were ineligible for such surcharges according to its filed rating plan on policy numbers CA09400332, CK0842293, CK08402029, CK08401779, and CK08402547; applied credits or debits to policies which did not meet the minimum premium requirements set by its filed rating plan on policy numbers CA06610559, CA00611232, CA006611123, CA6610278, and CA06610549; applied an incorrect minimum premium to policy number CK08401777, applied scheduled credits and/or debits to premiums which were ineligible according to its filed rating plan on policy numbers CK00206194, CK00205229, CK00204515, and CK00204661; and issued policy numbers RB06646666 and RB0066467800 before its rating plan was approved.
9. St. Paul did not document the specific factual information supporting the credits and debits applied to policy numbers CK08402334, RP06640252, RP06642807, CK08402488, CK08402572, CK0841430, CK08402034, CK08402043, CK00204515, and CK08402029; St. Paul also did not administer its schedule rating plan fairly and equitably when it failed to consider policy number CK08402145 for schedule rating although the risk was eligible.
10. St. Paul failed to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of the policy to the policyholders of claim numbers 35007-8167-3 and CK08402042-46A001, as detailed in Appendix 8 of the Report.
11. St. Paul did not correctly calculate the policy refund on policy number 298RX3914, and sent the refund to the agent rather than the insured. On policy number 298TA1457, St. Paul failed to compute the premium refund on the customary short rate basis although no alternative was provided in the policy; St. Paul did not give the requisite 45 day cancellation notice on policy numbers 400HM7209, and 339503-96, and did not give the reason for the cancellation of policy number 400HM7209.
12. St. Paul did not complete its investigation of claims on claim numbers CK08402204 46A021, 35005-6916-9, 35006-2931-0, 35007-9502-0, 35005-8001-8, and NBK 0380048-020239 within thirty days after it was notified of the claims.

13. St. Paul did not respond to subrogation notices on claim numbers 602NB2494/04T221, CK08402009-46A035, NBK0382620-017604, CK08402521-46A001, AT0550368-46A001, 35005-4244-8, and 35008-8352-9 within 10 working days; St. Paul did not respond to a letter of representation on claim number 602NB2494/04T221 within 10 working days; St. Paul did not respond to a claimant's letter on claim number 35007-5959-6, and did not respond to a notice of claim from the claimant's attorney on claim number SW05504130-46A010; St. Paul did not respond to notification of a potential personal injury protection claim within 10 working days.
14. On claim numbers 35007-8390, CK00205838 46A001, and PK0840253, St. Paul did not research vehicles available in the local market area to establish the total loss value of the vehicles; the total loss value of the vehicle under claim number NBK03607062-014739 was incorrectly evaluated; the license fees under claim number HA07200124 46A035 were not paid and the pro rata license fees and transfer fees under claim number CK08402365-46A010 were not paid.
15. Advertising form number 77032 contained one misleading section comparing the PAK II coverage with other companies' offerings, advertising form number 32313 contained two misleading sections comparing the PAK II coverage with other companies' offerings.
16. The nineteen advertising forms identified in Appendix 1 of the Report did not show the location of the home or principal office; the other two advertising forms identified in Appendix 1 did not show the full name of the insurer.
17. The seventeen advertising forms identified in Appendix 2 of the Report referenced the rating received by St. Paul from an advisory service but did not contain an explanation of the rating structure.
18. Eight agents who were not appointed by St. Paul in Washington wrote fifteen policies with Washington risks ; one agent who was not appointed by St. Paul in Washington presented a quote to a prospective insured; the policy numbers are identified in Appendix 3 of the Report.
19. St. Paul failed to obtain signed rejections of Personal Injury Protection coverage from the policyholders of policy numbers PK02209028 and PK08403768.
20. St. Paul issued a binder for policy number CA08400101 for more than the 90 days allowed by statute.
21. The files for claim numbers 35008-6682-1, CK00203339-46A001, NBK0382620-017604, CK08402433-46A004, and FK06602744-02A003 did not contain notes and work papers in such detail that pertinent events and their dates could be reconstructed.
22. St. Paul did not identify the actual insuring company in its Reinstatement Endorsement form #M0012; St. Paul issued 116 Certificates of Insurance on 13 policies which did not correctly identify the actual insuring company; St. Paul issued a bond which did not identify the actual insuring company on the renewal certificate.

23. St. Paul's personal lines claims department did not consistently identify the actual insuring company on correspondence.
24. St. Paul issued a binder on policy number CK03402487 which did not identify the actual insuring company and on policy number KG08300491, issued a binder which did not state the date and time coverage would be effective.

### **CONCLUSIONS OF LAW:**

1. St. Paul's failure to follow the rates it filed with OIC in the 148 boat policies it issued in its West Marine and Power Squadron programs violated RCW 48.19.040(6).
2. St. Paul's failure to follow its filed rates on policy numbers CK08402341 and CK08402332 despite the discovery in a 1997 WIEB audit of the discrepancy between those filed rates and the premiums charged on those policies, an instruction from WIEB to correct the premiums to conform to the filings, and passage of another renewal period, and its failure to file deviations with the Commissioner, constitutes a violation of RCW 48.19.040(6); additionally, St. Paul's failure to follow its filed rating plan with respect to premiums charged for five of its other policies, and its failure to file deviations on those policies with the Commissioner, constitutes a violation of RCW 48.19.040(6).
3. St. Paul's failure to base its ratings of twenty-three of its commercial policies (identified in Appendix 6 of the Report), which it classified as "(a)" or "refer-to-company" risks, on a documented underwriting analysis of specific definable loss potential characteristics, analogy to similar exposures, and available loss frequency and severity data, constitutes a violation of WAC 284-24-070(3).
4. By failing to file its Umbrella Excess Rating Manual within thirty days after policies were issued using it, St. Paul violated RCW 48.19.043.
5. St. Paul's failure to file the forty-seven endorsements identified in Appendix 4 of the Report, the Vehicle Exclusion Endorsement #S-645a and the PAK II Endorsement #98296 within thirty days after they were issued, St. Paul violated RCW 48.18.103.
6. St. Paul's failure to follow its filed rating plan with respect to expense factors, surcharges, credits and debits on sixteen of its policies constitutes a violation of RCW 48.19.040(6); by issuing two of its policies more than thirty days before its rating plan was filed, St. Paul violated RCW 48.19.040(1).
7. St. Paul's failure to document specific factual information supporting the credits and debits applied to ten of its policies violated WAC 284-24-100(5); by failing to administer its schedule rating plan fairly and equitably when it failed to consider a policy for schedule rating although the risk was eligible, St. Paul violated WAC 284-24-100(7).

8. St. Paul's failure to fully disclose to two first party claimants all pertinent benefits, coverages or other provisions of the policies, as detailed in Appendix 8 of the Report violated WAC 284-30-350.
9. St. Paul's failure to properly calculate two policy refunds, and sending one to the agent rather than the insured, violated RCW 48.18.300(2); St. Paul's failure to give the requisite 45 day cancellation notice on two of its policies and its failure to give the actual reason for the cancellation of one violated RCW 48.18.290(1)(a).
10. St. Paul's failure to complete its investigation of six claims within thirty days after its notification of those claims violated WAC 284-30-370.
11. St. Paul's failure to respond to eleven pertinent communications on claims within 10 working days violated WAC 284-30-360.
12. St. Paul's failure to research the vehicles available in the local market area, to correctly value the total loss value of a vehicle and to pay license and transfer fees on six vehicles violated WAC 284-30-390.
13. St. Paul's dissemination of three misleading representations through its advertising violated RCW 48.30.040.
14. St. Paul's failure to show the location of its home or principal office in the nineteen advertising forms identified in Appendix 1 of the Report, and to set forth the full name of the insurer in the two other advertising forms identified in Appendix 1 of the Report, violated RCW 48.30.050.
15. St. Paul's dissemination of seventeen advertising forms which referenced the rating received from an advisory service without including an explanation of the advisory service's rating structure, violated WAC 284-30-660.
16. By permitting agents who were not appointed by St. Paul in Washington to write the fifteen policies identified in Appendix 3 of the Report, and by permitting an agent who was not appointed by St. Paul in Washington to present a quote to a prospective insured, St. Paul violated RCW 48.17.160.
17. St. Paul's failure to obtain a written rejection of personal injury protection coverage from two of its policyholders violated RCW 48.22.085.
18. St. Paul's issuance of a binder for more than 90 days violated RCW 48.18.230(1).
19. St. Paul's failure to keep notes and work papers in such detail that pertinent events and their dates could be reconstructed in five claim files violated WAC 284-30-340.

20. St. Paul's failure to identify the actual insuring company in its Reinstatement Endorsement form #M0012, and the 116 Certificates of Insurance and the bond identified in Appendix 5 of the Report, constitutes a violation of RCW 48.05.190(1).

21. St. Paul's issuance of a binder which did not identify the actual insuring company and a binder that did not state the date and time coverage would be effective, constitutes a violation of WAC 284-30-560(2)(a).

**CONSENT TO ORDER:**

St. Paul hereby admits to the foregoing Findings and Conclusions.

The Commissioner has offered a settlement in lieu of suspending or revoking St. Paul's certificate of authority.

By agreement of the parties, the OIC will impose a fine of Two Hundred and Twenty Five Thousand Dollars and suspend One Hundred Thousand Dollars on condition that:

1. St. Paul shall pay One Hundred Twenty Five Thousand Dollars of the fine within thirty days of the date this Order is entered.
2. St. Paul commit no further violations of the statutes and regulations that are the subject of this Consent Order for a period of two years from the date on which this Order is entered. The OIC will not impose the balance of the fine nor proceed against St. Paul's certificate should it commit isolated, de minimis, violations of the statutes and regulations that are the subject of this Consent Order during the suspense period. St. Paul commits to rectifying such violations promptly once they are discovered.

EXECUTED and AGREED this 9th day of May, 2001.

ST. PAUL FIRE AND MARINE INSURANCE  
COMPANY

Title: \_\_\_\_\_

Signed: \_\_\_\_\_

ST. PAUL MERCURY INSURANCE COMPANY

Title: \_\_\_\_\_

Signed: \_\_\_\_\_

ST. PAUL GUARDIAN INSURANCE COMPANY

Title: \_\_\_\_\_

Signed:\_\_\_\_\_

ATHENA ASSURANCE COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

ST. PAUL MEDICAL LIABILITY INSURANCE  
COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

NORTHBROOK PROPERTY AND CASUALTY  
INSURANCE COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

NORTHBROOK INDEMNITY COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

NORTHBROOK NATIONAL INSURANCE  
COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

SEABOARD SURETY COMPANY

Title:\_\_\_\_\_

Signed:\_\_\_\_\_

ORDER

Pursuant to RCW 48.44.166, the Insurance Commissioner hereby imposes a fine of Two Hundred Twenty Five Thousand Dollars, with One Hundred Thousand Dollars suspended, upon St. Paul. The fine must be paid in full within thirty days of the date of entry of this order. Failure to pay the fine and comply with the stated Conditions within the allotted time shall constitute grounds for recovery of the full fine, including the suspended portion, and for revocation of St. Paul's certificate of authority, in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

The Commissioner may impose the balance of the suspended fine and reserves the right to suspend or revoke St. Paul's certificate of authority pursuant to statute and regulation should St. Paul fail to meet the conditions set forth in the "Consent to Order" section of this document.

ENTERED AT OLYMPIA, WASHINGTON, this 21st day of May, 2001.

Mike Kreidler  
Insurance Commissioner

By: \_\_\_\_\_  
Carol Sureau  
Deputy Commissioner, Legal Affairs  
Office of the Insurance Commissioner